

## **BOARD OF DESIGN REVIEW MINUTES**

**December 14, 2000**

**CALL TO ORDER:** Chairman David Williams called the meeting to order at 6:33 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive

**ROLL CALL:** Present were Chairman David Williams; Board Members Hal Beighley, Anissa Crane, Monty Edberg and Stewart Straus. Board Member Walter Lemon III was excused.

Senior Planner John Osterberg, Associate Planner Tyler Ryerson and Recording Secretary Sandra Pearson represented staff.

### **VISITORS:**

Chairman Williams read the format for the meeting and asked if any member of the audience wished to address the Board on any non-agenda item. There was no response.

### **NEW BUSINESS:**

Chairman Williams opened the Public Hearing and read the format of the meeting. There were no disqualifications of Board Members. No one in the audience challenged the right of any Board Member to hear any agenda items or participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda.

#### **A. BDR 2000-0148 -- TREASURE ISLAND CHINESE RESTAURANT TYPE 3 DESIGN REVIEW**

Request for Design Review approval for the development of an approximately 5,587 square foot restaurant, associated landscaping, parking and sidewalks at 15930 SW Regatta Lane. The Development proposal is located on Assessor's Map 1S1-05BA, Tax Lot 1600. The site is zoned Office Commercial (OC) and is approximately 0.70 acres in size.

Associate Planner Tyler Ryerson reported that the applicant has requested a continuance until January 11, 2001.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion that BDR 2000-0148 -- Treasure Island Chinese Restaurant Type 3 Design Review be continued to a date certain of January 11, 2001.

Motion **CARRIED**, unanimously.

**B. BDR 2000-0144 -- VOICESTREAM MONOPOLE AT 7675 SW NIMBUS AVENUE TYPE 3 DESIGN REVIEW**

Request for Design Review Approval for the construction of an 80-foot wireless communications monopole and accessory equipment on the northeast corner of the Parkside Mini-Storage property located north of SW Nimbus Avenue and west of Highway 217. The development proposal is located on Washington County Assessor's Map 1S1-22DD, Tax Lots 300, 500, 600 and 401 and on Assessor's Map 1S1-22DC, Tax Lots 100, 200 and 300. All parcels are zoned Campus Industrial (CI).

Mr. Ryerson presented the Staff Report and described the application for design review approval for a cellular monopole and accessory equipment on the above-described property. He discussed the Planning Commission's approval of CUP 2000-0023 for this same project on December 6, 2000, allowing the Board of Design Review to take action on BDR 2000-0144. Concluding, he mentioned that the Planning Commission had made the recommendation that the Board of Design Review make certain that the tower is compatible with the adjacent neighborhood and offered to respond to any comments or questions.

**APPLICANT:**

**LARRY SOTOMAYOR**, representing Communications Services, Inc., on behalf of VoiceStream Wireless Corporation, offered to respond to any comments or questions. At the request of Mr. Staus, he clarified that the facility is designed for co-location and described the process for co-locating equipment.

**PUBLIC TESTIMONY:**

On question, no member of the public appeared to testify at this time.

On question, staff had no further comments at this time.

The public portion of the Public Hearing was closed.

Mr. Straus **MOVED** and Mr. Edberg **SECONDED** a motion to approve BDR 2000-0144 -- Voicestream Monopole at 7675 SW Nimbus Avenue Type 3 Design Review, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated December 14, 2000, including Conditions of Approval Nos. 1 through 13.

Motion **CARRIED**, unanimously.

**B. BDR 2000-0048 -- "THE HOOP" MODIFICATION OF CONDITIONS OF APPROVAL TYPE 3 DESIGN REVIEW**

Request for Design Review approval to modify Condition of Approval No. 20 of the originally approved Design Review application (BDR 96-00101) at 9685 SW Harvest Court, in which the Planning Director set a specific minimum parking space requirement intended to accommodate the customers and employees of "The Hoop" facility as approved in 1996. The applicant now proposes to have additional recreation uses at "The Hoop" facility, including dances. The site is located on Assessor's Map 1S1-14CD, Tax Lot 200. The site is zoned Campus Industrial (CI) and is approximately 5.16 acres in size.

Senior Planner John Osterberg presented the Staff Report and additional communications received from Mahaley Lauren, dated December 9, 2000; Linda Dunn, dated December 13, 2000; and Richard Miyahira, dated December 10, 2000. He discussed the history of the application and previous application BDR 96-00101, observing that this application is for a modification to Facilities Review Condition of Approval No. A-1, pertaining to the number of available parking spaces in order to allow for additional recreational uses at the site, specifically dances. Emphasizing that the only additional use permitted would be dances, he mentioned that the only concerns expressed have been related to noise and lighting impacts and described the Conditions of Approval that have been recommended in order to mitigate any of these impacts. Concluding, he noted that staff is recommending approval of the application, under certain conditions, and offered to respond to any comments or questions.

Mr. Straus questioned whether the issue involves the additional parking requirements for dances, rather than only a basketball facility, emphasizing that all necessary parking is currently available and he does not understand why it is necessary for the Board of Design Review to act on this application.

Mr. Osterberg explained that while the facility is currently proposed for a basketball facility, the Planning Director had determined the necessity of an additional application for this additional use.

Mr. Straus observed that churches often schedule community dances in their social halls.

Mr. Osterberg observed that a church would have to apply for a modification of their Conditional Use Permit in order to add this new land use that has not been previously approved.

Mr. Straus noted that churches have dances, auctions and bazaars, observing that a dance may be instructional, rather than social, adding that whether or not it

makes sense, it appears that the Board of Design Review is locked into this current process.

**APPLICANT:**

**LARRY STEELE**, representing The Hoop/Beaverton, discussed his work in the area of recreational sports facilities, explaining that the owners and the staff of this facility have operated and would continue to operate in good faith in their efforts to address issues of concern.

**JOE SCHUBERG**, General Manager of The Hoop/Beaverton, submitted a document discussing issues regarding the noise at the facility, and described the measured levels during a dance as well as DEQ regulations. He discussed activities at the facility, emphasizing that the court could not be used for more than one activity at a time and submitted a document from Daly, Standlae & Associates, Inc., regarding the noise levels. Concluding, he observed that although the issue has been overrated, the applicant is concerned with noise issues, and offered to respond to any comments or questions.

**LANS STOUT**, referred to the original approval of The Hoop, providing a certain number of parking spaces and discussed the Conditions of Approval.

Mr. Straus expressed confusion regarding the wall and Mr. Stout advised him that the wall had been a draft condition for the original application.

**STEVEN R. SCHELL**, submitted a letter from Black Helterline Law Offices, expressing a desire to work with the neighbors and explaining limitations on what could be achieved at this limited use recreational facility. He described the issue which stemmed from an outdoor dance that had been approved by the City, although the applicant has taken measures to make certain that this problem does not reoccur.

Mr. Straus suggested the possibility of a permanently installed decibel meter located at their facility to indicate when there is a nuisance situation necessitating action.

Ms. Crane questioned Mr. Schuberg regarding the policy for answering telephone calls during dances

Mr. Schuberg advised Ms. Crane that certain staff is designated to respond to telephone calls, observing that such a call could be parents or a noise complaint, adding that he is always present monitoring activity and noise.

Chairman Williams drew an illustration on the dry-erase board, showing the building, vestibule and doors, indicating how sound travels out any time the door opens.

**RICHARD WHITE**, observed that while he has no specific comments at this time, he might have comments during the rebuttal.

**PUBLIC TESTIMONY:**

**JIM HOWE**, submitted written testimony, dated December 14, 2000, indicated the location of his home on Chairman Williams' illustration and referred to a report dated December 6, 2000.

Mr. Osterberg observed that the condition for the wall had been printed in error by the City of Beaverton, adding that it is no longer included within the Facilities Review Conditions.

Mr. Howe read his prepared written comments and offered to respond to any comments or questions.

**MARCELLA MELDRUN** indicated the location of her home on Chairman Williams' illustration and questioned Mr. Shuberg's memory of the NAC meeting with the police officer regarding the noise issue. She emphasized that the neighbors should not have to tolerate the boom boom boom that she constantly hears, even with her house closed up tight. She mentioned that she has called the applicant, the police and 9-1-1, pointing out that a telephone call to the Hoop only reaches the answering machine, adding that the applicant does not answer the telephone and never returns telephone calls. Concluding, she expressed her opinion that the applicant has no respect for the neighbors and offered to respond to any comments or questions.

Chairman Williams expressed his appreciation of Ms. Meldrun's very succinct testimony.

**LINDA DUNN** indicated the location of her home on Chairman Williams' illustration and discussed her frustrating experiences with complaints regarding the noise and extreme nuisance. Emphasizing that this became an issue in 1995, she expressed her opinion that the applicant do not and would not keep their word.

Mr. Straus advised all of the neighbors as a group, in summary, that the City of Beaverton has a standard based upon the 55 decibels at the property line, pointing out that this is what the City is in a position to enforce. He questioned if the enforcement of this standard is something that the neighbors are willing to live with. Observing that the decibel level measures the intensity of the sound generated at the facility, he noted that the environment has some effect upon this mathematical equation.

Mr. Howe commented that it is not feasible to respond without knowing what this equation amounts to in terms of actual noise.

Mr. Straus advised Mr. Howe that the City standard specifies only the decibel level, adding that if this level is exceeded, it is considered a nuisance.

Mr. Howe expressed his opinion that the applicant or the City should demonstrate exactly what 55 dbs is,

At the request of Chairman Williams, Mr. Osterberg read the code relating to sound levels. Section 60.40.25.14: "Noise levels shall meet the standards established by the State of Oregon Department of Environmental Quality."

Mr. Howe commented that the whistles used by the officials during their games are a major source of irritation.

Mr. Straus advised Mr. Howe that the Development Code does not require that these facilities be silent or inaudible, pointing out that nothing can guarantee silence.

Mr. Howe pointed out that the applicant had never lived up to their promises regarding outside activities.

Ms. Meldrun read an excerpt from the Board of Design Review Meeting Minutes, dated March 9, 1995, as follows: "Sounds will not escape the building and no loud music will be played."

**NORM DYER**, pointed out that any testing had been conducted at a time when the noise level was much lower.

8:42 p.m. – 9:01 p.m. – break.

Chairman Williams commented that the Board of Design Review has developed several options to present to both the applicant and the public for consideration.

Mr. Straus stated that although The Hoop has had difficulties, they are approaching, with good faith, their intent to correct or improve upon circumstances, adding that while the neighbors are skeptical and concerned, it should be possible to find a middle ground that would provide a satisfactory resolution to everybody. He suggested that at the next dance, the applicant should take whatever measures they feel would resolve this issue, and meet the DEQ standard adopted by the City of Beaverton, by whatever means, over the next month. He further suggested that the neighbors allow the applicant that time to resolve and address these issues, emphasizing that the end result is the most important. He commented that if efforts are not successful and continued complaints are received, the applicant would be required to provide monitoring at each event, with the means to adjust the sound levels, as necessary, adding that they would be responsible to maintain this standard. He explained that the

neighbors must accept or undertake changing the standard through other processes, specifically a change in the Development Code.

On behalf of the owners, Mr. Schell assured the Board that they are interested in cooperating in attempting to settle and accommodate. Expressing appreciation of the effort made by the City of Beaverton, he referred to the need for some sort of analysis or a written set of conditions, and proposed a continuance to January 11, 2001.

Expressing his opinion that the request for a continuance is a good idea, Mr. Straus pointed out that the burden is on the applicant to prove their ability to comply. He mentioned that this is better than aiming for a vague target, adding that the applicant has a better chance at success. He questioned the willingness of the applicant to sign a waiver of the 120-day rule.

Mr. Schell commented that he is in no position to sign such a waiver.

Observing that the application was completed on November 7, 2000, Mr. Strauss noted that the 120 day period would end March 7, 2001.

Mr. Schell pointed out that the City Council must deal with this deadline.

Mr. Osterberg recommended that a waiver be required prior to any continuance, at least providing for the extra period of time to January 11, 2001. He further recommended that without this waiver, action be taken tonight, including any necessary conditions.

Mr. Strauss noted that action on January 11, 2001 would still provide nearly two months to end of 120 day period.

Mr. Osterberg reviewed the necessary steps, as follows: 1) Public Hearing -- January 11, 2001; 2) Land Use Order to be prepared, signed and mailed within a few days; 3) a 10-day appeal period; 4) 20-day appeal notice requirement prior to City Council hearing; and 5) newspaper notification; and reiterated his concern with the 120-day period.

Mr. Schell agreed to sign a waiver for the time frame until January 11, 2001, requesting closure of oral testimony tonight and that only written testimony be accepted for the continuance on January 11, 2001

Mr. Strauss advised Mr. Schell that the purpose of this continuance is the rebuttal, which consists of explanatory information, rather than new information.

Chairman Williams requested that any questions be submitted to the Board in advance of the continued Public Hearing

Mr. Osterberg observed that he anticipates no problem with this procedure, adding that the Public Hearing would be re-opened on January 11, 2001.

Mr. Schell commented that the applicant is attempting to provide the neighbors with an opportunity to review what is submitted and comment prior to the applicant's response.

Mr. Howe expressed his agreement with the procedure and his concern with the protection of the neighborhood, and requested a solution to the problems resulting from the noise and lights.

Mr. Dyer referred to page 4 of 9 of the Staff Report, specifically commenting that dances seven days a week, 31 days a month do not normally occur in an industrial park, which this is. Observing that this is a drastic change from any industrial park activities, he emphasized that dances are not basketball, volleyball and gymnastics. He expressed concern with the fact that there are no restrictions on how often these dances could occur.

Mr. Straus suggested a restriction on the number of days that the facility could be utilized for dances.

Mr. Ostberg observed that staff's goal is to address parking issues and the impact of these dances on the neighborhood, rather than attempting to limit the use of the facility.

Ms. Meldrun advised the Board that the children in the neighborhood need their sleep, particularly on school nights, adding that there is a curfew for these junior high students. She pointed out that Measure 7 requires that she has to disclose this situation if she chooses to put her home on the market.

Ms. Dunn expressed concern that the process would respect both the qualitative and quantitative methods that could be utilized to address the concerns of the neighbors.

The public portion of the Public Hearing was closed.

Mr. Osterberg noted that he has no further comments at this time, adding that he expects to meet with Mr. Schell to identify a schedule for this process.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion to continue BDR 2000-0048 -- "The Hoop" Modification of Conditions of Approval Type 3 Design Review, to a date certain of January 11, 2001, for the purpose of allowing the applicant to provide a proposal for methodology to evaluate the impact of sound from "The Hoop", based on the City of Beaverton Development Code requirements, addressing both qualitative and quantitative criteria expressed by the neighbors in the hearing of December 14, 2000, and in subsequent



correspondence. The applicant shall provide written material to staff at a time staff requires for distribution to the Board and to the neighbors prior to the January 11, 2001 meeting.

Motion **CARRIED**, unanimously.

#### **APPROVAL OF MINUTES:**

The minutes of October 26, 2000, as written, were submitted. Chairman Williams asked if there were any changes or corrections. Mr. Beighley **MOVED** and Mr. Straus **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED** unanimously, with the exception of Mr. Edberg, who abstained from voting on this issue.

The minutes of November 9, 2000, as written, were submitted. Chairman Williams asked if there were any changes or corrections. Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED**, unanimously.

#### **MISCELLANEOUS BUSINESS:**

The meeting adjourned at 10:02 p.m.